11-18-2015

Plaintiffs' Motion for a Timely 2016 Briefing Schedule

No. 84362-7

SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Defendant/Appellant,

v.

MATHEW & STEPHANIE MCCLEARY, on their own behalf and on behalf of KELSEY & CARTER MCCLEARY, their two children in Washington's public schools; ROBERT & PATTY VENEMA, on their own behalf and on behalf of HALIE & ROBBIE VENEMA, their two children in Washington's public schools; and **N**ETWORK FOR **E**XCELLENCE IN **W**ASHINGTON **S**CHOOLS ("NEWS"), a state-wide coalition of community groups, public school districts, and education organizations,

Plaintiffs/Respondents.

PLAINTIFFS' MOTION FOR A TIMELY 2016 BRIEFING SCHEDULE

[Oral argument not requested]

[Defendant's Answer due 10 days after service; plaintiffs' Reply due 3 days later. RAP 17.4(e)]

TABLE OF CONTENTS

I. INTRODUCTION

Back in 2012, this Court unequivocally held that "Article IX, section 1 confers on children in Washington a positive constitutional right to an amply funded education"[1] and ordered that the 2017-2018 school year is a "firm deadline for full constitutional compliance."[2]

---

[1] McCleary v. State, 173 Wn.2d 477, 483, 269 P.3d 227 (2012).

[2] *December 2012 Order at p.2 (underline added). With respect to this "2018" deadline, plaintiffs note that the State identifies each fiscal year by the calendar year in which it ends – e.g., the State refers to its "2017-2018 fiscal year" as the "2018" fiscal year. See A Guide To The Washington State Budget Process by State's Office of Financial Management ("OFM") at p.10 (June 2014), available at http://www.ofm.wa.gov/reports/budgetprocess.pdf (defining State's "Fiscal Year" as the "12-month period used for budget and accounting purposes. The state fiscal year runs from July 1 through June 30 of the following year, and is named for the calendar year in which it ends (e.g., July 1, 2012 through June 30, 2013 is state Fiscal Year 2013)."). As this Court's repeated references to the "2017-18 school year" in this case confirm, the shorthand use of "2018" to identify the school year deadline in this case similarly means the 2017-2018 school year. See, e.g., January 2014 Order at p.6 ("implement ESHB 2261 and SHB 2776 by the* **2017-18** *school year"), p.8 (ordering complete plan to fully implement "between now and the* **2017-18** *school year"), p.5 (additional capital expenditures required for full-day kindergarten and K-3 class-size reduction by* **2017-18***"), p.5 n.3 (cost of reaching full implementation of the all-day kindergarten and K-3 class-size reductions "by the* **2017-18** *school year"); June 2014 Order at p.2 (fully fund "by the* **2017-18** *school year"), p.2 (complete plan to fully implement "between now and the* **2017-18** *school year"), pp.3-4 (show cause why failing to submit that plan "for each school year between now and the* **2017-18** *school year" is not contempt); September 2014 Order at p.2 ("fully fund education reforms by the* **2017-18** *school year"), p.2 (complete plan for full implementation "between now and* **2017-18** *school year"), pp.4-5 (ordering State's 2015 legislative session to submit that previously-ordered complete implementation plan for "between now and the* **2017-18** *school year").*

The State's upcoming 2016 legislative session will or will not purge the State's ensuing contempt of court in this case.

Plaintiffs hope it does.

But if it doesn't, that will create a serious timing problem. Only one school year remains between now and the firm 2017-2018 school year deadline for the State's full constitutional compliance. In short: time is about to run out.

Plaintiffs file this motion to request a briefing schedule that enables this Court to make a prompt decision on whether or not the 2016 session successfully purges the State's contempt – and if not, whether a stronger contempt sanction is warranted to compel compliance with the court orders in this case. Before time runs out.

II. NAME & DESIGNATION OF MOVING PARTY
[RAP 17.3(a)(1)]

This motion is filed by the Plaintiff/Respondents:

- the McCleary family from Jefferson County;[3]
- the Venema family from Snohomish County;[4] and
- the Network for Excellence in Washington Schools ("NEWS").[5]

---

[3] *Final Judgment (CP 2761-2971) at ¶¶13-16, 104-107, 113-114.*

[4] *Final Judgment (CP 2761-2971) at ¶¶17-20, 104, 108-111, 113-114.*

[5] *A State-wide coalition of 430 entities including civil rights groups such as El Centro de la Raza and the Urban League, Washington school districts of assorted demographics and sizes totaling over 90% of the State's K-12 public school students, and various State education organizations such as the PTA, Special Education Coalition, Coalition For Gifted Education, Washington Education Association, and teacher*

III. RELIEF SOUGHT
[RAP 17.3(a)(2)]

This Court will eventually have to decide whether or not the legislature's upcoming 2016 session purged the State's contempt of court – and if not, whether a stronger contempt sanction is warranted to compel timely compliance with the court orders in this case.

Plaintiffs request that this Court make those decisions soon after the 2016 session adjourns. Plaintiffs accordingly seek a Court Order that:

(a) establishes the briefing schedule set forth below, and

(b) provides that once that briefing is submitted, this Court will make a timely decision on whether or not the 2016 session purged the State's contempt and, if not, whether a stronger sanction is warranted.

Court Filing	***Due Date***
State's 2016 Post-Adjournment Filing	Day after 2016 regular session adjourns *(or, if immediately extended into special sessions, the day after the last of those immediately following special sessions adjourns)*
State's 2016 Post-Budget Filing	Day after Governor signs 2016-2017 supplemental budget
Plaintiffs' 2016 Post-Budget Response	15 days after State files and serves its 2016 Post-Budget Filing

IV. RELEVANT PARTS OF THE RECORD
[RAP 17.3(a)(3)]

This motion is based on the court rulings in this case.[6]

---

locals across the State), http://waschoolexcellence.org/about/news-members/ ; see also Final Judgment (CP 2761-2971) at ¶¶21-97, 115-117.

[6] *The February 2010 Final Judgment whose declaratory rulings were unanimously affirmed by this Court is at CP 2761-2971. This Court's*

V. GROUNDS FOR RELIEF WITH SUPPORTING ARGUMENT

[RAP 17.3(a)(4)]

The following explains why plaintiffs believe this motion should be granted.

A. State Officials Know The 2016 Session Must Purge The State's Contempt Of Court.

1. State Officials Know Their Constitutional Duty.

The February 2010 Final Judgment and January 2012 Supreme Court decision unequivocally established the State's ample funding duty under Article IX, §1:

- "Article IX, section 1 confers on children in Washington a positive constitutional right to an amply funded education."[7]
- The "paramount duty" mandate in Article IX, §1 imposes a legal **duty** which is **paramount**: "the State must amply provide for the education of all Washington children as the State's first and highest priority before any other State programs or operations."[8]
- The "ample" mandate in Article IX, §1 means **ample**: the State's K-12 funding must be "fully sufficient" and "considerably more than just adequate."[9]

January 5, 2012 decision and ensuing 7/18/2012, 12/20/2012, 1/9/2014, 6/12/2014, 9/11/2014, 4/30/2015, 6/8/2015, and 8/13/2015 Orders are at http://www.courts.wa.gov/appellate_trial_courts/SupremeCourt/?fa=supremecourt.McCleary_Education .

[7] *173 Wn.2d at 483, accord 518-519.*

[8] *173 Wn.2d at 520 (underlines added; internal quotation marks omitted); accord, February 2010 Final Judgment at ¶¶157-161 (CP 2905-2907).*

[9] *173 Wn.2d at 484 & 527; accord, February 2010 Final Judgment at ¶¶162-165 (CP 2907-2908).*

- The "all children" mandate in Article IX, §1 includes **all** children – not just the ones who are more privileged, more politically popular, or more easy to teach: it covers "each and every child" in Washington, "No child is excluded."[10]

- The State's failure to amply fund its K-12 schools violates Article IX, §1.[11]

---

[10] *173 Wn.2d at 520; accord, February 2010 Final Judgment at ¶¶166-168 (CP 2908).*

[11] *E.g., 173 Wn.2d at 529 ("The trial court concluded that the State has failed to adequately fund the 'education' required by article IX, section 1. Substantial evidence supports this conclusion."), at 547 ("The State has failed to meet its duty under article IX, section 1 by consistently providing school districts with a level of resources that falls short of the actual costs of the basic education program"); see also, e.g., February 2010 Final Judgment at ¶231(a) (the State's K-12 funding does "not provide all children residing in our State with a realistic or effective opportunity to become equipped with that knowledge, skill, or substantive 'education'" mandated by Article IX, §1) (CP 2929), at ¶256 ("Petitioners have proven even the higher standard of 'beyond a reasonable doubt.'") (CP 2937). The trial court's decision was based on a lengthy trial which included the sworn testimony of and exhibits submitted by 55 witnesses, including the State's chief education officer under our Constitution (current and past State Superintendents of Public Instruction); the State's chief elections officer under our Constitution (Washington Secretary of State Sam Reed); the State's chief finance official (State Office of Financial Management director Victor Moore); the State's designated representatives from the Constitutionally established State Auditor's office; the Chairman of the State Board of Education; Superintendents of the 13 school districts across Washington that the defendant State and plaintiffs agreed were appropriate "focus districts" to assess the full meaning and application of Article IX, §1; the heads of civil rights organizations representing minority citizens in our State such as the Urban League and El Centro de la Raza; the University of Washington professor who has spent his career studying the role education plays in a democracy; the State's chief education researcher at the Washington State Institute for Public Policy; and a wide array of the State officials, State legislators, State legislative staff, and State executive branch staff who were a part of the various education commissions, task forces, studies, and reports which the State has been doing since Seattle School District v. State, 90 Wn.2d 476 (1978) – including the Governor's Washington Learns Commission and the*

2. State Officials Know The Urgency Of Compliance.

This Court's January 5, 2012 decision was clear:

> Article IX, section 1 confers on children in Washington a positive constitutional right to an amply funded education.[12]

So were its ensuing 2012 Orders:

Progress: This Court's July 2012 Order required the State to demonstrate steady ***progress*** every year towards full ample funding compliance by the 2017-2018 school year.[13]

Plan: This Court's December 2012 Order required the State to submit a complete ample funding ***plan***. It unequivocally declared that "there must in fact be a ***plan***."[14] And it later reiterated that this ample funding ***plan***:

---

legislature's Basic Education Finance Task Force (upon which ESHB 2261 is based). CP 2946-2971.

[12] *173 Wn.2d at 483, accord 518-519.*

[13] *Supra footnote 2 (re: 2017-2018 school year); July 18, 2012 Order at ¶¶1 & 4 (ordering the State's annual post-budget filing to (a) demonstrate "***steady*** progress" implementing ESHB 2261, and (b) show "***real*** and* ***measurable*** *progress" towards full Article IX, §1 compliance by 2018) (bold italics added). As the State has long known from the prior filings in this case, "steady", "real", and "measurable" are not empty, meaningless words:* ***steady*** *means "even development, movement, or action: not varying in quality, intensity, or direction", "UNIFORM", "CONTINUOUS", "consistent in performance or behavior: DEPENDABLE, RELIABLE";* ***real*** *means "AUTHENTIC", "GENUINE", "not illusory : INDUBITABLE, UNQUESTIONABLE"; and* ***measurable*** *means not merely "capable" of being measured, but in fact "great enough to be worth consideration: SIGNIFICANT". See summary in Plaintiff/Respondents' 2015 Post-Budget Filing at pp.15-16.*

[14] *December 2012 Order at p.2 (bold italic added).*

(a) must be a complete plan for fully implementing the State's program of basic education for each school year to the 2017-2018 school year, addressing each of the areas of K-12 education within ESHB 2261 and SHB 2776; and

(b) must include a phase-in schedule for fully funding each of the components of basic education.[15]

Urgency: This Court's December 2012 Order also made the urgent need for prompt action perfectly clear to State officials:

- The 2017-2018 school year is a "firm deadline for full constitutional compliance."[16]
- "Given the scale of the task at hand, [this deadline] is only a moment away."[17]
- "We cannot wait until 'graduation' in 2018 to determine if the State has met minimum constitutional standards."[18]

In short: State officials have long know the urgency of compliance in this case.

3. State Officials Know The State Is In Contempt Of Court.

This Court's September 2014 Order confirmed the State has nonetheless failed to comply with the court orders in this case for years.[19] This Court accordingly ruled the State in contempt of court.[20]

---

[15] *E.g., June 8, 2015 Order at pp.2-3 (underlines added).*
[16] *Supra, footnote 2 (confirming that "2018" refers to the 2017-2018 school year).*
[17] *December 20, 2012 Order at p.3.*
[18] *December 20, 2012 Order at p.3.*
[19] *September 11, 2014 Order at pp.1-4.*
[20] *September 11, 2014 Order at pp.4-5.*

4. This Court's Initial Contempt Sanction Has Been Insufficient To Motivate State Officials To Purge The State's Contempt.

This Court's August 2015 Order imposed a significant daily fine as a contempt sanction, and encouraged State officials to convene a special session this Fall to purge the State's ongoing contempt of court.[21] (*Cf.* the State's November 2013 special session to enact an $8.7 billion legislative package to purge the displeasure of a particular airplane company.[22])

A mere monetary sanction, however, has thus far been too weak to compel State officials to purge the State's contempt of court this year. It appears at this point that State officials are instead punting their consideration of this task to the upcoming 2016 regular session (January 11 - March 10).[23]

B. <u>This Court Should Set A Briefing Schedule That Enables It To Promptly Decide Whether The 2016 Session Purged The State's Contempt.</u>

1. It's Reasonable To Require The State To Promptly Report What Its 2016 Session Did To Purge The State's Contempt.

State officials will know the amount of the 2016 session's ample funding ***progress*** (if any) and details of the 2016 session's ample funding ***plan*** (if any) the minute the 2016 session adjourns. The State accordingly will not need time after that adjournment to know and report what its

---

[21] *August 13, 2015 Order at pp.9-10.*

[22] *See, e.g., Plaintiffs' 2014 Post-Budget Filing at p.31 & n.93.*

[23] *The 2016 Regular Session convenes January 11 and is scheduled to adjourn March 10,* http://leg.wa.gov/ *(dates listed immediately after "What's happening on the floor?" heading).*

2016 session did. *Cf.*, September 11, 2014 Order at p.5 (directing State to file its post-adjournment filing "on the date following adjournment of the 2015 session"); April 30, 2015 Order at p.2 (directing State to file its post-adjournment filing "on the day following adjournment").

Given the above, it is not unreasonable to direct the State to file its post-adjournment filing the day following adjournment of the 2016 session, and file its subsequent post-budget filing the day after the Governor signs that session's 2016-2017 supplemental budget.

2. It Makes Sense For This Court To Then Promptly Decide Whether The 2016 Session Purged The State's Contempt.

A practical reality exists: the State will not be able to meet the firm 2017-2018 school year deadline for full constitutional compliance in this case unless the 2016 session purges the State's current contempt of court by enacting the ample funding ***progress*** and ample funding ***plan*** mandated by the court orders in this case.

Given that practical reality, it makes sense for this Court to promptly decide whether the 2016 session purged the State's contempt – for if the 2016 session fails to do so, that failure would confirm that compelling compliance requires a stronger contempt sanction.

But time for compliance is about to run out. Only one school year will remain between the 2016 session's adjournment and the firm 2017-2018 school year deadline for full constitutional compliance in this

case. To enable this Court to timely address whether the 2016 session purged the State's contempt, this motion proposes that plaintiffs' 2016 Response to the State's Post-Budget Filing be due only 15 days after the State files and serves it.

C. The Briefing Schedule Should Also Enable This Court To Promptly Impose A Stronger Contempt Sanction (If Needed) Before It's Too Late.

1. A Continued Failure To Purge The State's Contempt Would Prove Monetary Sanctions Are Insufficient To Motivate State Officials.

There are only two session years left before the firm 2017-2018 school year deadline for full constitutional compliance in this case (2016 session and 2017 session). The upcoming 2016 session will therefore have to either:

(1) produce the ample funding ***progress*** and detailed ample funding ***plan*** previously ordered by this Court, or

(2) punt that ***progress*** and ***plan*** to the 2017 session.

Plaintiffs hope State officials choose option 1 (compliance).

But if they choose option 2 (punt), that would confirm that mere monetary sanctions are too weak to motivate our State officials to timely comply with Supreme Court Orders. Unless court orders are now considered optional suggestions in our State (instead of legal mandates), the 2016 session's failure to purge the State's ongoing contempt would

show that compelling compliance with the court orders in this case requires a sanction stronger than a mere monetary fine.

2. Stronger Contempt Sanctions Are Available To Motivate Compliance.

One thing the parties have consistently agreed upon in this case is that the purpose of a contempt sanction is to coerce the defendant to comply with a court order by making continued non-compliance more undesirable than compliance.[24] Thus in this case, the purpose of a contempt sanction is not to cure the State's constitutional violation by having that sanction appropriate the ample funding mandated by Article IX, §1. Rather, its purpose is to compel State officials to comply with the court orders in this case by making continued non-compliance more undesirable to them than compliance.

Contempt sanctions stronger than a monetary fine are available to accomplish that purpose. See, e.g., June 2014 Order at p.4 (listing half a dozen types of sanctions[25]); Plaintiffs' August 11, 2014 Answer To

---

[24] *See full discussion at Plaintiffs' August 11, 2014 Answer To Defendant's Response To The Court's Show Cause Order, at pp.6-8 & pp.24-28.*

[25] *June 12, 2014 Order at p.4 (listing: "1. Imposing monetary or other contempt sanctions; 2. Prohibiting expenditures on certain other matters until the Court's constitutional ruling is complied with; 3. Ordering the legislature to pass legislation to fund specific amounts or remedies; 4. Ordering the sale of State property to fund constitutional compliance; 5. Invalidating education funding cuts to the budget; 6. Prohibiting the funding of an unconstitutional education system; and 7. Any other appropriate relief").*

Defendant's Response To The Court's Show Cause Order at pp.28-47 (discussing those sanctions). Two concrete examples follow:

> ***(a) <u>School Statutes</u>: Order that if the State's contempt is not purged by the first day of the upcoming 2016-2017 school year, the Court will invalidate the State's K-12 school statutes that are not amply funded.***

This Court could issue an Order expressly warning that it will invalidate the defendant State's public school statutes effective the first day of the upcoming 2016-2017 school year if the State continues its failure to comply with the court orders in this case.

This type of remedial sanction has successfully motivated (coerced) the compliance of State legislatures in other school funding cases by effectively prohibiting the State's continuation of an unconstitutionally underfunded school system.[26]

This type of remedial sanction should not be a surprise to any State official involved with our State's ongoing contempt in this case. The court filings have been discussing this type of sanction since 2013.[27] This Court expressly listed this type of sanction in its June 2014 show cause

---

[26] *See Plaintiffs' 2013 Post-Budget Filing at pp. 46-47 & n.141; Plaintiffs' 2014 Post-Budget Filing at p.47 & n.146; and Plaintiffs' August 11, 2014 Answer To Defendant's Response To The Court's Show Cause Order at pp.43-47.*

[27] *See Plaintiffs' 2013 Post-Budget Filing at pp. 46-47 & n.141; Plaintiffs' 2014 Post-Budget Filing at p.47 & n.146; and Plaintiffs' August 11, 2014 Answer To Defendant's Response To The Court's Show Cause Order at pp.43-47.*

Order.[28] And since Article IX, §1 mandates ample funding, this sanction's invalidation of statutes that are not amply funded is consistent with the judicial branch's authority to invalidate unconstitutional statutes.

(b) <u>Exemption Statutes</u>: Order that if the State's contempt is not purged by the first day of the upcoming 2016-2017 school year, the Court will suspend the State's tax exemption statutes until the State's K-12 schools are amply funded.

This Court could issue an Order expressly warning that it will suspend the State's tax exemption statutes effective the first day of the upcoming 2016-2017 school year if the State continues its failure to comply with the court orders in this case.

This Court has already reiterated that the legislature must obey court orders. September 11, 2014 Order at p.3 ("These orders are not advisory or designed only to get the legislature's 'attention'; the court expects them to be obeyed, even though they are directed to a coordinate branch of government").

But that was over 14 months ago. If the 2016 session does not purge the State's continuing contempt, a firm sanction will be needed to coerce compliance with the court orders in this case. Suspending State exemption statutes until the State's K-12 schools are amply funded is a firm sanction, and it carries much weight to motivate State officials' compliance.

---

[28] *June 12, 2014 Order at p.4 (remedial sanction no. 6: "Prohibiting the funding of an unconstitutional education system").*

This type of sanction, moreover, should not be a surprise to any State official involved with our State's ongoing contempt. This Court's June 2014 show cause Order concluded its list of potential sanctions by stating it might order "Any other appropriate relief"[29] – and then a member of this Court expressly noted at the ensuing September 2014 show cause hearing that one sanction could be invalidating the approximately $30 billion/biennium of exemption statutes the State has enacted in preference over its paramount duty to amply fund its K-12 schools.[30]

Since our State Constitution makes Article IX, §1's ample funding mandate "the State's first and highest priority before any other State programs or operations",[31] invalidating statutes that put the priority of K-12 public school funding second, below, and after other priorities is consistent with the judicial branch's authority to invalidate unconstitutional statutes.

---

[29] *June 12, 2014 Order at p.4 (remedial sanction no. 7: "Any other appropriate relief").*

[30] *See Sept. 3, 2014 Show Cause Hearing, at minutes 43:39-45:29 (http://www.tvw.org/index.php?option=com_tvwplayer&eventID=2014090001) (Johnson, Associate Chief Justice) (noting option of Court invalidating the approximately $30 billion/biennium of State tax exemptions on the books, and then leaving it up to the legislature to re-enact each exemption it so chooses after the legislature fully funds the State's primary responsibility of ample funding under Article IX, §1 as already established by the court rulings in this case); see also Plaintiffs' 2015 Post-Budget Filing at pp.47-48 & n.123.*

[31] *Supra footnote 8.*

Although this exemption-related sanction is milder than the previously noted school-statute sanction successfully employed by courts in other States to compel State legislatures' compliance with court orders, this exemption-related sanction would still serve the fundamental purpose of a contempt sanction – i.e., motivate (coerce) the defendant to choose to comply with court orders rather than continue violating them.

3. A Stronger Sanction Will Be Needed If The 2016 Session Does Not Purge The State's Contempt.

Plaintiffs appreciate that many (perhaps most) State officials have chosen the politically convenient path of procrastination because they think this Court will never issue a contempt sanction with real teeth in it to create the urgency required to actually compel compliance.

Plaintiffs accordingly submit that if the 2016 session does not fully purge the State's ongoing contempt, that contempt will unfortunately continue until State officials truly believe their won't-ever-be-any-teeth conclusion is wrong. That is why a firm sanction with real teeth will be necessary if the 2016 session does not purge the State's contempt.

4. It Makes Sense For This Court To Promptly Decide On A Stronger Sanction If The 2016 Session Does Not Purge The State's Contempt.

Washington law prohibits State officials and their election campaigns from fundraising during legislative sessions.[32] This restriction has a significant effect in 2016 because the Governor's office, every seat in the House, and half the seats in the Senate, are all up for election in November 2016.

As soon as the 2016 regular session adjourns, State officials will therefore have a very strong campaign fundraising reason to **not** reconvene to remedy any unpurged contempt. And the closer the November election gets, the stronger that campaign fundraising reason for inaction becomes. If this Court wants a contempt sanction to be effective in compelling State officials to remedy any unpurged contempt after the 2016 regular session adjourns, this Court will therefore have to make its sanctions decision promptly.

VI. CONCLUSION

The State's April 2010 Supreme Court filings insisted this case presents "urgent issues of broad public import that require prompt and ultimate determination" because "Public school education is the State's paramount constitutional duty" and "Public school funding affects the

---

[32] *RCW 42.17A.560(1); WAC 390-17-400(3) (reiterating this "Legislative session freeze period" of RCW 42.17A.560).*

lives and futures of Washington families throughout the State's 295 school districts."[33] Plaintiffs have consistently agreed with the need for prompt, firm decisions in this case.[34]

But time is now running out. The upcoming 2016-2017 school year is the last one left before the firm deadline for full constitutional compliance in this case. And the upcoming 2016 legislative session is the last one which can produce the steady ample funding ***progress*** and detailed ample funding ***plan*** mandated by the court orders in this case. For the reasons explained in this motion, this Court should accordingly enter an Order that:

(a) establishes the briefing schedule stated in Part III of this motion, and

(b) provides that once that briefing is submitted, this Court will make a timely decision on whether or not the 2016 session purged the State's contempt and, if not, whether a stronger sanction such as one of the two noted in Part V.C.2(a) & (b) of this motion is warranted.

RESPECTFULLY SUBMITTED this 18th day of November, 2015.

s/ Thomas F. Ahearne
Thomas F. Ahearne, WSBA No. 14844
Christopher G. Emch, WSBA No. 26457
Adrian Urquhart Winder, WSBA No. 38071
Kelly A. Lennox, WSBA No. 39583
Lee R. Marchisio, WSBA No. 45351
Attorneys for Plaintiffs

[33] *State's April 2010 Statement Of Grounds For Direct Review at p.10.*
[34] *E.g., Plaintiffs' (1) Answer to Defendant State's Statement Of Grounds For Direct Review And, (2) Statement Of Grounds For Direct Review (To The Extent Not Already Covered In The State's Statement) at p.4 & p.12.*

DECLARATION OF SERVICE

Adrian Urquhart Winder declares:

I am a citizen of the United States of America and a resident of the State of Washington. I am over the age of twenty-one years. I am not a party to this action, and I am competent to be a witness herein. On Wednesday, November 18, 2015, I caused PLAINTIFFS' MOTION FOR A TIMELY 2016 BRIEFING SCHEDULE to be served as follows:

David A. Stolier, Sr. Alan D. Copsey Office of the Attorney General 1125 Washington Street SE Olympia, WA 98504-0100 daves@atg.wa.gov alanc@atg.wa.gov *Defendant State of Washington*	☒ Via Electronic Mail (cc of the same email sent to the Supreme Court for the filing of this PLAINTIFFS' MOTION FOR A TIMELY 2016 BRIEFING SCHEDULE) ☒ Via U.S. First Class Mail
William G. Clark Office of the Attorney General 800 Fifth Avenue, Suite 2000 Seattle, WA 98104-3188 billc2@atg.wa.gov *Defendant State of Washington*	☒ Via Electronic Mail (cc of the same email sent to the Supreme Court for the filing of this PLAINTIFFS' MOTION FOR A TIMELY 2016 BRIEFING SCHEDULE) ☒ Via U.S. First Class Mail

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

EXECUTED in Seattle, Washington, this 18th day of November, 2015.

s/ Adrian Urquhart Winder
Adrian Urquhart Winder